

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Jessica Fulmore,) Civil Action No.: 3:22-cv-03396-CMC
)
Plaintiff,)
)
v.) **NOTICE OF REMOVAL**
)
Sunbeam Products, Inc., d/b/a Jarden Consumers)
Solutions; Newell Brands, Inc.; XYZ Corporation,)
)
Defendants.)
)

Defendants Sunbeam Products, Inc., d/b/a Jarden Consumers Solutions (“Sunbeam”) and Newel Brands, Inc. (“Newell”, or at times collectively referred to as “Defendants”) by and through its undersigned counsel, and pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, hereby gives notice that they have removed from the Richland Court of Common Pleas the action titled *Jessica Fulmore v. Sunbeam Products, Inc. d/b/a Jarden Consumers Solutions; Newell Brands, Inc. and XYZ Corporation*, Case No. 2022-CP-40-04442, to this Court, the United States District Court for the District of South Carolina, Columbia Division.

The removal is based on the following grounds:

A. Timeliness of Removal

1. On or about August 29, 2022, Plaintiff Jessica Fulmore (“Plaintiff”) commenced this civil action in Richand County Court of Common Pleas by filing a Summons and Complaint.

2. On August 31, 2022, Defendants were served with the Summons and Complaint. (Exhibit A, State Court Documents.) Removal is timely as it was effected within 30 days of the service of the Summons and Complaint on Defendants. 28 U.S.C. § 1446(b)(2)(B).

B. Diversity Jurisdiction

3. At the time the Complaint was filed, at the time of removal, and at all intervening times, Sunbeam was, and is, a subsidiary of Defendant Newell. Sunbeam is a Delaware corporation with its principal place of business at 2381 Executive Center Drive, Boca Raton, Florida 33431. Thus, Sunbeam is a citizen of Delaware and Florida. *See* 28 U.S.C. § 1332(c)(1).

4. At the time the Complaint was filed, at the time of removal, and at all intervening times, Newell was, and is, a Delaware corporation with its principal place of business at 221 River Street, Hoboken, New Jersey. Thus, Newell is a citizen of Delaware and New Jersey. *See* 28 U.S.C. § 1332(c)(1).

5. Plaintiff alleges that she is a resident of South Carolina. (Compl., ¶ 2.)

6. Plaintiff further alleges that Defendant Sunbeam is a resident of the State of Florida. (Compl., ¶ 3.)

7. Accordingly, Plaintiff and Defendants are citizens of different states and complete diversity exists.

C. Amount in Controversy

8. The amount in controversy exceeds the sum or value of \$75,000 exclusive of interest and costs. 28 U.S.C. § 1332(a)(1).

9. Plaintiff alleges that an “explosion” occurred when using a pressure cooker manufactured by Sunbeam causing severe burns and injuries, ¶¶ 9-21.)

10. Plaintiff further alleges that, as a result of the incident, she “suffered physical pain, substantial and permanent injuries and scarring to [Plaintiff’s] arms, legs, stomach and breasts;

substantial mental pain and suffering...; extensive medical bills; and loss of enjoyment of life and mental anguish" (Compl., ¶ 21.)

11. Plaintiff alleges that "[a]s a direct and proximate result of Defendants' negligence, grossly negligent, reckless, willful, and wanton misconduct...Plaintiff has suffered actual and consequential damages, and is entitled to such damages, in addition to punitive damages, as may be proven at trial". (Compl., ¶ 22.)

12. As a result, Plaintiff alleges she is entitled to actual and punitive damages from Sunbeam and Newell (Compl., Final Paragraph titled "WHEREFORE").

13. "When a specific amount is not specified in the complaint, '[t]he object which is sought to be accomplished by the plaintiff may be looked to in determining the value of the matter in controversy.'" *Stewart v. AT&T Mobility LLC*, 2011 U.S. Dist. LEXIS 92537, at *7 (D.S.C. July 21, 2011) (citing *Cannon v. United Ins. Co.*, 352 F. Supp. 1212, 1217 (D.S.C. 1973)). "Punitive damages 'must be included in the calculation of the amount in controversy.'" *Id.* at *8 (citing *Am. Health & Life Ins. Co. v. Heyward*, 272 F. Supp. 2d 578, 581 (D.S.C. 2003)).

14. "It is the Court's experience that the plaintiff's bar rarely seeks less than ten times damages for punitive damages." *Woodward v. Newcourt Commer. Fin. Corp.*, 60 F. Supp. 2d 530, 532 (D.S.C. 1999).

15. Based on Plaintiff's allegations that she was subjected to "severe physical pain," has sustained "substantial and permanent injuries" causing "substantial mental pain and suffering", has incurred medical bills, and has suffered loss of "enjoyment of life," the amount in controversy exceeds to the sum or value of \$75,000 exclusive of interest and costs.

16. For the above reasons, the amount in controversy in this case exceeds the jurisdictional threshold in 28 U.S.C. § 1332(a)(1) and this Court has subject-matter jurisdiction.

17. Accordingly, this case is removable under 28 U.S.C. § 1441(a).

D. Compliance with 28 U.S.C. § 1446

18. A copy of all process and pleadings filed by Plaintiff are attached hereto as Exhibit

A. Contemporaneously with the filing of this Notice of Removal, written notice has been served upon Plaintiff through Plaintiff's counsel of record and a true and correct copy of this Notice of Removal has been or will be filed with the Clerk of Court for Richland County, South Carolina, as required by 28 U.S.C. § 1446(d).

19. The Court of Common Pleas for Richland, South Carolina is located within the jurisdiction of the United States District Court for the District of South Carolina, Columbia Division; therefore, this Court is the proper one for removal of this action.

20. Defendants have submitted the required filing fee to the Clerk of the Court.

21. By filing this Notice, Defendants do not waive any defense that may be available to them.

WHEREFORE, Defendants respectfully request that the action now pending in the State of South Carolina, Richland County, Court of Common Pleas, as Case No. 2022-CP-40-04442, proceed before this Court as an action properly removed.

Dated: September 30, 2022

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